
By: **Delegates Dembrow and Doory**
Introduced and read first time: February 8, 2001
Assigned to: Judiciary

Committee Report: Favorable with amendments
House action: Adopted
Read second time: March 17, 2001

CHAPTER _____

1 AN ACT concerning

2 **Fraud - Telecommunication Service Providers**

3 FOR the purpose of prohibiting use, possession, manufacture, assembly, transfer,
4 distribution, advertising, and related activities relating to certain unlawful
5 telecommunication devices and access codes and unlawful access devices;
6 providing criminal penalties, damages, injunction, impounding, forfeiture, and
7 other enforcement measures for violations of this Act; authorizing a civil cause
8 of action for certain damages for violations of this Act; providing certain rules of
9 construction and, jurisdiction of certain courts, and venue for prosecution of
10 violations of this Act; providing certain exceptions; defining certain terms;
11 repealing certain duplicative provisions; providing for the application of this Act;
12 and generally relating to telecommunication services and unlawful access.

13 BY adding to
14 Article 27 - Crimes and Punishments
15 Section 194A to be under the new subheading "Fraud - Telecommunication
16 Service Providers"
17 Annotated Code of Maryland
18 (1996 Replacement Volume and 2000 Supplement)

19 BY adding to
20 Article - Courts and Judicial Proceedings
21 Section 4-301(b)(15)
22 Annotated Code of Maryland
23 (1998 Replacement Volume and 2000 Supplement)

24 BY repealing and reenacting, with amendments,

1 Article - Courts and Judicial Proceedings
 2 Section 4-302(a) and (d)(1)
 3 Annotated Code of Maryland
 4 (1998 Replacement Volume and 2000 Supplement)

5 BY repealing
 6 Article 27 - Crimes and Punishments
 7 Section 557C through 557F and the subheading "Telecommunications Act"
 8 Annotated Code of Maryland
 9 (1996 Replacement Volume and 2000 Supplement)

10 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 11 MARYLAND, That the Laws of Maryland read as follows:

12 **Article 27 - Crimes and Punishments**

13 **FRAUD - TELECOMMUNICATION SERVICE PROVIDERS**

14 194A.

15 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
 16 INDICATED.

17 (2) "ANY PERSON AGGRIEVED" MEANS ANY PERSON WHO HAS
 18 SUFFERED A SPECIFIC AND DIRECT INJURY TO A RIGHT PROTECTED BY THIS
 19 SECTION.

20 ~~(2)~~ (3) "MANUFACTURE" OR "ASSEMBLE", WITH RESPECT TO AN
 21 UNLAWFUL ACCESS DEVICE, MEANS:

22 (I) TO MAKE, PRODUCE, OR ASSEMBLE AN UNLAWFUL ACCESS
 23 DEVICE;

24 (II) TO MODIFY, ALTER, PROGRAM, OR REPROGRAM AN
 25 INSTRUMENT, DEVICE, MACHINE, EQUIPMENT, TECHNOLOGY, OR SOFTWARE, SO
 26 THAT IT IS CAPABLE OF DEFEATING OR CIRCUMVENTING TECHNOLOGY, SOFTWARE,
 27 OR A DEVICE THAT IS USED BY THE PROVIDER, OWNER, OR LICENSEE OF A
 28 TELECOMMUNICATION SERVICE OR OF A DATA, AUDIO, OR VIDEO PROGRAM OR
 29 TRANSMISSION, TO PROTECT THE TELECOMMUNICATION, DATA, AUDIO, OR VIDEO
 30 SERVICE, PROGRAM, OR TRANSMISSION FROM UNAUTHORIZED RECEIPT,
 31 ACQUISITION, ACCESS, DECRYPTION, DISCLOSURE, COMMUNICATION,
 32 TRANSMISSION, OR RETRANSMISSION; OR

33 (III) KNOWINGLY TO ASSIST OTHERS IN THOSE ACTIVITIES.

34 ~~(3)~~ (4) "MANUFACTURE" OR "ASSEMBLE", WITH RESPECT TO AN
 35 UNLAWFUL TELECOMMUNICATION DEVICE OR ACCESS CODE, MEANS:

1 (I) TO MAKE, PRODUCE, OR ASSEMBLE AN UNLAWFUL
2 TELECOMMUNICATION DEVICE OR ACCESS CODE;

3 (II) TO MODIFY, ALTER, PROGRAM, OR REPROGRAM A
4 TELECOMMUNICATION DEVICE OR ACCESS CODE TO BE CAPABLE OF ACQUIRING,
5 DISRUPTING, RECEIVING, TRANSMITTING, DECRYPTING, OR FACILITATING THE
6 ACQUISITION, DISRUPTION, RECEIPT, TRANSMISSION, OR DECRYPTION OF A
7 TELECOMMUNICATION SERVICE WITHOUT THE EXPRESS CONSENT OR EXPRESS
8 AUTHORIZATION OF THE TELECOMMUNICATION SERVICE PROVIDER; OR

9 (III) KNOWINGLY TO ASSIST OTHERS IN THOSE ACTIVITIES.

10 ~~(4)~~ (5) "TELECOMMUNICATION DEVICE OR ACCESS CODE" MEANS:

11 (I) AN INSTRUMENT, DEVICE, MACHINE, EQUIPMENT,
12 TECHNOLOGY, OR SOFTWARE WHICH IS CAPABLE OF TRANSMITTING, ACQUIRING,
13 DECRYPTING, OR RECEIVING ANY TELEPHONIC, ELECTRONIC, DATA, INTERNET
14 ACCESS, AUDIO, VIDEO, MICROWAVE OR RADIO TRANSMISSIONS, SIGNALS,
15 COMMUNICATIONS, OR SERVICES, INCLUDING THE RECEIPT, ACQUISITION,
16 TRANSMISSION, OR DECRYPTION OF THOSE COMMUNICATIONS, TRANSMISSIONS,
17 SIGNALS, OR SERVICES PROVIDED BY OR THROUGH ANY CABLE TELEVISION, FIBER
18 OPTIC, TELEPHONE, SATELLITE, MICROWAVE, DATA TRANSMISSION, RADIO,
19 INTERNET-BASED, OR WIRELESS DISTRIBUTION NETWORK, SYSTEM, OR FACILITY;
20 ~~OR~~

21 (II) A PART, ACCESSORY, OR COMPONENT OF AN ITEM LISTED IN
22 SUBPARAGRAPH (I) OF THIS PARAGRAPH, INCLUDING A COMPUTER CIRCUIT,
23 SECURITY MODULE, SMART CARD, SOFTWARE, COMPUTER CHIP, ELECTRONIC
24 MECHANISM, OR OTHER COMPONENT, ACCESSORY, OR PART OF ANY
25 TELECOMMUNICATION DEVICE THAT IS CAPABLE OF FACILITATING THE
26 TRANSMISSION, DECRYPTION, ACQUISITION, OR RECEPTION OF ANY OF THOSE
27 COMMUNICATIONS, TRANSMISSIONS, SIGNALS, OR SERVICES; OR

28 (III) AN ELECTRONIC SERIAL NUMBER, MOBILE IDENTIFICATION
29 NUMBER, SERVICE ACCESS CARD, ACCOUNT NUMBER, OR PERSONAL
30 IDENTIFICATION NUMBER USED TO ACQUIRE, RECEIVE, USE, OR TRANSMIT A
31 TELECOMMUNICATION SERVICE.

32 ~~(5)~~ (6) "TELECOMMUNICATION SERVICE" MEANS A SERVICE PROVIDED
33 FOR A CHARGE OR COMPENSATION:

34 (I) ~~SERVICE PROVIDED FOR A CHARGE OR COMPENSATION TO~~
35 ~~FACILITATE THE ORIGATION, TRANSMISSION, EMISSION, OR RECEPTION OF SIGNS,~~
36 ~~SIGNALS, DATA, WRITINGS, IMAGES, AND SOUNDS OR INTELLIGENCE OF ANY~~
37 ~~NATURE BY TELEPHONE, INCLUDING CELLULAR TELEPHONES, WIRE, WIRELESS,~~
38 ~~RADIO, ELECTROMAGNETIC, PHOTOELECTRONIC, OR PHOTO-OPTICAL SYSTEMS; OR~~

39 (II) ~~SERVICE PROVIDED~~ BY ANY RADIO, TELEPHONE, FIBER OPTIC,
40 CABLE TELEVISION, SATELLITE, MICROWAVE, DATA TRANSMISSION, WIRELESS, OR
41 INTERNET-BASED DISTRIBUTION SYSTEM, NETWORK, ~~FACILITY, OR TECHNOLOGY~~ OR

1 FACILITY, INCLUDING ELECTRONIC, DATA, VIDEO, AUDIO, INTERNET ACCESS,
 2 TELEPHONIC, MICROWAVE AND RADIO COMMUNICATIONS, TRANSMISSIONS,
 3 SIGNALS, AND SERVICES; ~~AND~~

4 ~~(III)~~ AND THOSE COMMUNICATIONS, TRANSMISSIONS, SIGNALS,
 5 AND SERVICES PROVIDED DIRECTLY OR INDIRECTLY, BY OR THROUGH, A SYSTEM,
 6 NETWORK, FACILITY, OR TECHNOLOGY LISTED IN THIS PARAGRAPH.

7 ~~(6)~~ (7) (I) "TELECOMMUNICATION SERVICE PROVIDER" MEANS A
 8 PERSON THAT:

9 1. ~~PROVIDES A TELECOMMUNICATION SERVICE, EITHER~~
 10 ~~DIRECTLY, OR INDIRECTLY AS A RESELLER; OR~~

11 ~~2. OWNS, OPERATES, OR PROVIDES A TELECOMMUNICATION~~
 12 ~~SERVICE DIRECTLY OR INDIRECTLY USING OR OPERATES A FIBER OPTIC, CABLE~~
 13 ~~TELEVISION, SATELLITE, INTERNET-BASED, TELEPHONE, WIRELESS, MICROWAVE,~~
 14 ~~DATA TRANSMISSION, OR RADIO DISTRIBUTION SYSTEM, NETWORK, OR FACILITY; OR~~

15 2. PROVIDES A TELECOMMUNICATION SERVICE DIRECTLY
 16 OR INDIRECTLY USING ANY OF THE SYSTEMS, NETWORKS, OR FACILITIES
 17 DESCRIBED IN ITEM 1 OF THIS SUBPARAGRAPH.

18 (II) "TELECOMMUNICATION SERVICE PROVIDER" INCLUDES A
 19 CELLULAR, PAGING, OR OTHER WIRELESS COMMUNICATIONS COMPANY OR OTHER
 20 PERSON THAT, FOR A FEE, SUPPLIES THE FACILITY, CELL SITE, MOBILE TELEPHONE
 21 SWITCHING OFFICE, OR OTHER EQUIPMENT OR TELECOMMUNICATION SERVICE.

22 ~~(7)~~ (8) "UNLAWFUL ACCESS DEVICE" MEANS AN INSTRUMENT,
 23 DEVICE, ACCESS CODE MACHINE, EQUIPMENT, TECHNOLOGY, OR SOFTWARE WHICH
 24 IS PRIMARILY DESIGNED, ASSEMBLED, MANUFACTURED, SOLD, DISTRIBUTED,
 25 POSSESSED, USED, OFFERED, PROMOTED, OR ADVERTISED FOR THE PURPOSE OF
 26 DEFEATING OR CIRCUMVENTING TECHNOLOGY, SOFTWARE, OR A DEVICE, OR A
 27 COMPONENT OR PART OF ANY OF THEM USED BY THE PROVIDER, OWNER, OR
 28 LICENSEE OF ANY TELECOMMUNICATION SERVICE OR OF A DATA, AUDIO, OR VIDEO
 29 PROGRAM OR TRANSMISSION, TO PROTECT ~~THE~~ THAT TELECOMMUNICATION, DATA,
 30 AUDIO, OR VIDEO SERVICE, PROGRAM, OR TRANSMISSION FROM UNAUTHORIZED
 31 RECEIPT, ACQUISITION, ACCESS, DECRYPTION, DISCLOSURE, COMMUNICATION,
 32 TRANSMISSION, OR RETRANSMISSION.

33 ~~(8)~~ (9) (I) "UNLAWFUL TELECOMMUNICATION DEVICE OR ACCESS
 34 CODE" MEANS:

35 ~~1. AN ELECTRONIC SERIAL NUMBER, MOBILE~~
 36 ~~IDENTIFICATION NUMBER, PERSONAL IDENTIFICATION NUMBER, OR A~~
 37 ~~TELECOMMUNICATION DEVICE THAT IS CAPABLE OF ACQUIRING OR FACILITATING~~
 38 ~~THE ACQUISITION OF A TELECOMMUNICATION SERVICE WITHOUT THE EXPRESS~~
 39 ~~CONSENT OR EXPRESS AUTHORIZATION OF THE TELECOMMUNICATION SERVICE~~
 40 ~~PROVIDER, OR THAT HAS BEEN ALTERED, MODIFIED, PROGRAMMED, OR~~
 41 ~~REPROGRAMMED, ALONE OR IN CONJUNCTION WITH ANOTHER~~

1 TELECOMMUNICATION DEVICE OR OTHER EQUIPMENT, TO SO ACQUIRE OR
 2 FACILITATE THE UNAUTHORIZED ACQUISITION OF A TELECOMMUNICATION
 3 SERVICE;

4 ~~2. A TELEPHONE ALTERED TO OBTAIN SERVICE WITHOUT~~
 5 ~~THE EXPRESS CONSENT OR EXPRESS AUTHORIZATION OF THE~~
 6 ~~TELECOMMUNICATION SERVICE PROVIDER, TUMBLER PHONE, COUNTERFEIT OR~~
 7 ~~CLONE PHONE, TUMBLER MICROCHIP, COUNTERFEIT OR CLONE MICROCHIP, OR~~
 8 ~~OTHER INSTRUMENT CAPABLE OF DISGUIISING ITS IDENTITY OR LOCATION, OR OF~~
 9 ~~GAINING UNAUTHORIZED ACCESS TO A COMMUNICATIONS SYSTEM OPERATED BY A~~
 10 ~~TELECOMMUNICATION SERVICE PROVIDER; OR~~

11 3. A TELECOMMUNICATION DEVICE OR ACCESS CODE THAT
 12 ~~IS CAPABLE OF, OR~~ HAS BEEN ALTERED, DESIGNED, MODIFIED, PROGRAMMED, OR
 13 REPROGRAMMED, ALONE OR IN CONJUNCTION WITH ANOTHER
 14 TELECOMMUNICATION DEVICE OR ACCESS CODE, SO AS TO BE CAPABLE OF,
 15 FACILITATING THE DISRUPTION, ACQUISITION, RECEIPT, TRANSMISSION, OR
 16 DECRYPTION OF A TELECOMMUNICATION SERVICE WITHOUT THE EXPRESS
 17 CONSENT OR EXPRESS AUTHORIZATION OF THE TELECOMMUNICATION SERVICE
 18 PROVIDER.

19 (II) "UNLAWFUL TELECOMMUNICATION DEVICE OR ACCESS CODE"
 20 INCLUDES A DEVICE, TECHNOLOGY, PRODUCT, SERVICE, EQUIPMENT, ACCESS CODE,
 21 OR COMPUTER SOFTWARE, COMPONENT, OR PART, PRIMARILY DISTRIBUTED, SOLD,
 22 DESIGNED, ASSEMBLED, MANUFACTURED, MODIFIED, PROGRAMMED,
 23 REPROGRAMMED, OR USED TO PROVIDE THE UNAUTHORIZED RECEIPT OF,
 24 TRANSMISSION OF, DISRUPTION OF, DECRYPTION OF, ACCESS TO, OR ACQUISITION
 25 OF A TELECOMMUNICATION SERVICE PROVIDED BY A TELECOMMUNICATION
 26 SERVICE PROVIDER.

27 (B) THIS SECTION DOES NOT APPLY TO:

28 (1) A LAW ENFORCEMENT OFFICER WHO POSSESSES OR USES A
 29 TELECOMMUNICATION ~~ACCESS~~ DEVICE OR ACCESS CODE IN THE COURSE OF AN
 30 OFFICIAL POLICE INVESTIGATION;

31 (2) A TELECOMMUNICATION SERVICE PROVIDER WHILE LAWFULLY
 32 ACTING IN THAT CAPACITY ; OR

33 (3) A PERSON WHO IS EXPRESSLY AUTHORIZED BY A LAW
 34 ENFORCEMENT AGENCY OR OTHER LAWFUL AUTHORITY TO:

35 (I) MANUFACTURE TELECOMMUNICATION ~~ACCESS~~ DEVICES OR
 36 ACCESS CODES FOR DISTRIBUTION OR SALE TO A LAW ENFORCEMENT AGENCY OR
 37 TELECOMMUNICATION SERVICE PROVIDER; OR

38 (II) DISTRIBUTE OR SELL TELECOMMUNICATIONS DEVICES OR
 39 ACCESS CODES TO A LAW ENFORCEMENT AGENCY OR TELECOMMUNICATION
 40 SERVICE PROVIDER.

1 (C) A PERSON MAY NOT KNOWINGLY:

2 (1) POSSESS, USE, MANUFACTURE, DISTRIBUTE, TRANSFER, SELL,
3 OFFER, PROMOTE, OR ADVERTISE FOR SALE, USE, OR DISTRIBUTION, AN UNLAWFUL
4 TELECOMMUNICATION DEVICE ~~OR MODIFY, ALTER, PROGRAM, OR REPROGRAM A~~
5 ~~TELECOMMUNICATION DEVICE:~~

6 ~~(A)~~ OR ACCESS CODE:

7 ~~(I)~~ FOR THE COMMISSION OF A THEFT OF TELECOMMUNICATION
8 SERVICE ~~OR;~~ OR

9 ~~(II)~~ TO RECEIVE, DISRUPT, TRANSMIT, DECRYPT, ACQUIRE, OR
10 FACILITATE THE RECEIPT, DISRUPTION, TRANSMISSION, DECRYPTION, OR
11 ACQUISITION OF A TELECOMMUNICATION SERVICE WITHOUT THE EXPRESS
12 CONSENT OR EXPRESS AUTHORIZATION OF THE TELECOMMUNICATION SERVICE
13 PROVIDER; ~~OR~~

14 ~~(H)~~ ~~TO CONCEAL OR TO ASSIST ANOTHER TO CONCEAL FROM A~~
15 ~~TELECOMMUNICATION SERVICE PROVIDER, OR FROM A LAWFUL AUTHORITY, THE~~
16 ~~EXISTENCE, PLACE OF ORIGIN, OR DESTINATION OF A TELECOMMUNICATION; OR~~

17 (2) POSSESS, USE, MANUFACTURE, ASSEMBLE, DISTRIBUTE, TRANSFER,
18 SELL, OFFER, PROMOTE, OR ADVERTISE FOR SALE, USE, OR DISTRIBUTION ANY
19 UNLAWFUL ACCESS DEVICE; OR

20 (3) POSSESS, USE, PREPARE, DISTRIBUTE, SELL, GIVE, TRANSFER,
21 OFFER, PROMOTE, OR ADVERTISE FOR SALE, USE, OR DISTRIBUTION EQUIPMENT,
22 INCLUDING HARDWARE, CABLES, TOOLS, DATA, COMPUTER SOFTWARE, OR OTHER
23 COMPONENTS WITH KNOWLEDGE THAT THE PURCHASER OR A THIRD PERSON
24 INTENDS TO USE THEM TO MANUFACTURE OR ASSEMBLE AN UNLAWFUL
25 TELECOMMUNICATION DEVICE OR ACCESS CODE FOR A PURPOSE PROHIBITED BY
26 THIS SECTION.

27 (D) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A
28 PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON
29 CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 3 YEARS OR A FINE
30 NOT EXCEEDING \$2,500 OR BOTH.

31 (2) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A
32 ~~MISDEMEANOR~~ FELONY AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT
33 EXCEEDING ~~5~~ 10 YEARS OR A FINE NOT EXCEEDING \$10,000 OR BOTH IF THE
34 VIOLATION OF THIS SECTION INVOLVES MORE THAN ~~50~~ 100 UNLAWFUL
35 TELECOMMUNICATION ~~OR DEVICES OR ACCESS CODES OR UNLAWFUL ACCESS~~
36 DEVICES.

37 (3) ~~FOR PURPOSES OF ALL CRIMINAL PENALTIES OR FINES~~
38 ~~ESTABLISHED FOR VIOLATIONS OF THIS SECTION, THE PROHIBITED ACTIVITY AS IT~~
39 ~~APPLIES TO EACH UNLAWFUL TELECOMMUNICATION OR ACCESS DEVICE IS A~~
40 ~~SEPARATE VIOLATION.~~

1 (4) IN ADDITION TO ANY OTHER SENTENCE AUTHORIZED BY LAW, THE
2 COURT MAY REQUIRE A PERSON CONVICTED OF VIOLATING THIS SECTION TO MAKE
3 RESTITUTION IN ACCORDANCE WITH THE CRIMINAL PROCEDURE ARTICLE.

4 (5) (4) ON CONVICTION OF A DEFENDANT UNDER THIS SECTION, THE
5 COURT MAY, IN ADDITION TO ANY OTHER SENTENCE AUTHORIZED BY LAW, DIRECT
6 THAT THE DEFENDANT FORFEIT TO THE STATE ANY UNLAWFUL
7 TELECOMMUNICATION ~~OR DEVICES OR ACCESS CODES OR UNLAWFUL~~ ACCESS
8 DEVICES IN THE DEFENDANT'S POSSESSION OR CONTROL WHICH WERE INVOLVED
9 IN THE VIOLATION FOR WHICH THE DEFENDANT WAS CONVICTED.

10 (E) (1) A CRIME UNDER THIS SECTION MAY BE CONSIDERED TO HAVE BEEN
11 COMMITTED AT EITHER THE PLACE WHERE THE DEFENDANT MANUFACTURES OR
12 ASSEMBLES AN UNLAWFUL TELECOMMUNICATION ~~OR DEVICE OR ACCESS CODE OR~~
13 UNLAWFUL ACCESS DEVICE OR ASSISTS OTHERS IN DOING SO, OR A PLACE WHERE
14 THE UNLAWFUL TELECOMMUNICATION OR DEVICE OR ACCESS CODE OR UNLAWFUL
15 ACCESS DEVICE IS SOLD OR DELIVERED TO A PURCHASER OR RECIPIENT.

16 (2) IT IS NOT A DEFENSE TO A VIOLATION OF THIS SECTION THAT SOME
17 OF THE ACTS CONSTITUTING THE VIOLATION OCCURRED OUTSIDE OF THIS STATE.

18 (F) (1) ANY PERSON AGGRIEVED BY A VIOLATION OF THIS SECTION MAY
19 BRING A CIVIL ACTION IN ANY COURT OF COMPETENT JURISDICTION.

20 (2) THE COURT MAY:

21 (I) IMPOSE PRELIMINARY AND FINAL INJUNCTIONS TO PREVENT
22 OR RESTRAIN A VIOLATION OF THIS SECTION;

23 (II) AT ANY TIME WHILE AN ACTION IS PENDING, ORDER THE
24 IMPOUNDING, ON TERMS THE COURT CONSIDERS TO BE REASONABLE, OF ANY
25 UNLAWFUL TELECOMMUNICATION ~~OR DEVICE OR ACCESS CODE OR UNLAWFUL~~
26 ACCESS DEVICE THAT IS IN THE CUSTODY OR CONTROL OF THE VIOLATOR AND THAT
27 THE COURT HAS REASONABLE CAUSE TO BELIEVE WAS INVOLVED IN THE ALLEGED
28 VIOLATION OF THIS SECTION;

29 (III) AWARD DAMAGES UNDER PARAGRAPH (3) OF THIS SUBSECTION;
30 OR

31 (IV) ~~IN ITS DISCRETION, AWARD TO AN AGGRIEVED PARTY WHO~~
32 ~~PREVAILS REASONABLE ATTORNEY FEES AND COSTS, INCLUDING COSTS FOR~~
33 ~~INVESTIGATION, TESTING, AND EXPERT WITNESS FEES; AND~~

34 (4) AS PART OF A FINAL JUDGMENT OR DECREE FINDING A
35 VIOLATION OF THIS SECTION, ORDER THE REMEDIAL MODIFICATION OR
36 DESTRUCTION OF ANY UNLAWFUL TELECOMMUNICATION ~~OR DEVICE OR ACCESS~~
37 CODE OR UNLAWFUL ACCESS DEVICE INVOLVED IN THE VIOLATION THAT IS IN THE
38 CUSTODY OR CONTROL OF THE VIOLATOR OR HAS BEEN IMPOUNDED UNDER
39 SUBPARAGRAPH (II) OF THIS PARAGRAPH.

1 (3) THIS SUBSECTION MAY NOT BE CONSTRUED TO GRANT THE
 2 DISTRICT COURT AUTHORITY TO GRANT RELIEF UNDER PARAGRAPH (2)(I) OF THIS
 3 SUBSECTION.

4 (3) (4) (I) DAMAGES AWARDED BY A COURT UNDER THIS SECTION
 5 MAY BE COMPUTED AS ACTUAL DAMAGES SUFFERED BY THE COMPLAINING PARTY
 6 AS A RESULT OF THE VIOLATION OF THIS SECTION AND ANY PROFITS OF THE
 7 VIOLATOR THAT ARE ATTRIBUTABLE TO THE VIOLATION AND ARE NOT TAKEN INTO
 8 ACCOUNT IN COMPUTING THE ACTUAL DAMAGES.

9 (II) IN DETERMINING THE PROFITS OF THE VIOLATOR UNDER
 10 SUBPARAGRAPH (I) OF THIS PARAGRAPH:

11 1. THE COMPLAINING PARTY MUST PROVE ONLY THE
 12 VIOLATOR'S GROSS REVENUE; AND

13 2. THE VIOLATOR MUST PROVE THE DEDUCTIBLE EXPENSES
 14 AND ELEMENTS OF PROFIT ATTRIBUTABLE TO FACTORS OTHER THAN THE
 15 VIOLATION.

16 **Article - Courts and Judicial Proceedings**

17 4-301.

18 (b) Except as provided in § 4-302 of this subtitle, the District Court also has
 19 exclusive original jurisdiction in a criminal case in which a person at least 18 years
 20 old or a corporation is charged with:

21 (15) VIOLATION OF ARTICLE 27, § 194A OF THE CODE, WHETHER A FELONY
 22 OR MISDEMEANOR.

23 4-302.

24 (a) Except as provided in § 4-301(b)(2), (6), (7), (8), (9), (10), (11), (12), (13),
 25 [and] (14), AND (15) of this subtitle, the District Court does not have jurisdiction to try
 26 a criminal case charging the commission of a felony.

27 (d) (1) Except as provided in paragraph (2) of this subsection, the
 28 jurisdiction of the District Court is concurrent with that of the circuit court in a
 29 criminal case:

30 (i) In which the penalty may be confinement for [three] 3 years or
 31 more or a fine of \$2,500 or more; or

32 (ii) Which is a felony, as provided in § 4-301(b)(2), (6), (7), (8), (9),
 33 (10), (11), (12), (13), [and] (14), AND (15) of this subtitle.

34 SECTION 2. AND BE IT FURTHER ENACTED, That Section(s) ~~194B~~ and
 35 557C through 557F and the subheading "Telecommunications Act" of Article 27 -
 36 Crimes and Punishments of the Annotated Code of Maryland be repealed.

1 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall be
2 construed only prospectively to offenses and causes of action arising on or after the
3 effective date of this Act and may not be applied or interpreted to have any effect on
4 or application to any offenses or causes of action arising before the effective date of
5 this Act.

6 SECTION ~~3~~ 4. AND BE IT FURTHER ENACTED, That this Act shall take
7 effect October 1, 2001.